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PATENT

00AB072A / ALBRP176USA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Applicant:	Samuel John Malizia, Jr.	Examiner:	Ramesh B. Patel
Serial No:	10/790,520	Art Unit:	2121
Filing Date:	March 1, 2004		

Title: PAGE BACK SYSTEM AND METHOD FOR REMOTE PAGING IN A CONTROL SYSTEM

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPEAL BRIEF

Dear Sir:

Appellant's representative submits this brief in connection with an appeal of the above-identified patent application. A credit card payment form is filed concurrently herewith in connection with all fees due regarding this appeal brief. In the event any additional fees may be due and/or are not covered by the credit card, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1063 [ALBRP176USA].

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I.   **Real Party in Interest (37 C.F.R. §41.37(c)(1)(i))**

The real party in interest in the present appeal is Rockwell Technologies, LLC, the assignee of the present application.

II.   **Related Appeals and Interferences (37 C.F.R. §41.37(c)(1)(ii))**

Appellant, appellant's legal representative, and/or the assignee of the present application are not aware of any appeals or interferences which may be related to, will directly affect, or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III.   **Status of Claims (37 C.F.R. §41.37(c)(1)(iii))**

Claims 1-17 stand rejected by the Examiner. The rejection of claims 1-17 is being appealed.

IV.   **Status of Amendments (37 C.F.R. §41.37(c)(1)(iv))**

No claim amendments have been entered after the Final Office Action.

V.   **Summary of Claimed Subject Matter (37 C.F.R. §41.37(c)(1)(v))**

A.   **Independent Claim 1**

Independent claim 1 recites a system that facilitates communication between an industrial control device and a remote user device, comprising: an industrial control device that monitors information related to an industrial automation environment; and a processor that receives information from the industrial control device, determines whether a trigger condition exists, associates a data variable with the trigger condition, and selectively constructs and transmits at least one pager message to the remote user device if a trigger condition exists. (*See e.g.*, pg. 7, line 16 – pg. 8, line 4; pg. 12, line 6 – pg. 16, line 17; *See generally* Figs. 3A-4G).

B.   Independent Claim 7

Independent claim 7 recites a method for communicating between an industrial control device and a remote user device, comprising: receiving information related to an industrial automation environment from the industrial control device; determining whether received information indicates a trigger condition; associating a data variable with an extant trigger condition; selectively constructing a pager message comprising a text string and the data variable; and transmitting the pager message to the remote user device. (*See e.g.*, pg. 7, line 16 – pg. 8, line 4; pg. 16, line 18 – pg. 18, line 23; *See generally* Figs. 5A-6C).

C.   Independent Claim 14

Independent claim 14 recites a system that facilitates communication between an industrial control device and a remote user device and selective reprogramming of the industrial control device, comprising: means for detecting extant trigger conditions in an industrial automation environment; means for assigning a data variable to the trigger condition; means for translating information indicative of the extant trigger condition into at least one pager message; and means for transmitting the at least one pager message to a remote user device to alert a user to the extant trigger condition. (*See e.g.*, pg. 7, line 16 – pg. 8, line 4; pg. 12, line 6 – pg. 16, line 17; *See generally* Figs. 3A-4G).

VI.   Grounds of Rejection to be Reviewed (37 C.F.R. §41.37(c)(1)(vi))

A.   Claims 1-17 stand rejected under 35 U.S.C. §102(e) as being anticipated by Johnson *et al.* (US 2002/0041238 A1).

VII.   Argument (37 C.F.R. §41.37(c)(1)(vii))

A.   Rejection of Claims 1-17 Under 35 U.S.C. §102(e)

Claims 1-17 stand rejected under 35 U.S.C. §102(e) as being anticipated by Johnson *et al.* (US 2002/0041238 A1). It is requested that this rejection be reversed for at

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least the following reason. Johnson *et al.* does not describe each and every element of the
subject claims.

> For a prior art reference to anticipate, 35 U.S.C. §102
> requires that *"each and every element* as set forth in the
> claim is found, either expressly or inherently described, in a
> single prior art reference." *In re Robertson,* 169 F.3d 743,
> 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (*quoting
> Verdegaal Bros., Inc.* v. *Union Oil Co.,* 814 F.2d 628, 631,
> 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis added).

Appellant's claimed invention relates to creating and sending a pager message
from a communications device to a remote device via a communications medium,
according to a control condition in a control device which triggers pager message
construction and transmission. (*See* pg. 10, ll. 1-4). In particular, independent claims 1,
7, and 14 recite a similar limitation: a processor that *determines whether a trigger
condition exists* and *associates a data variable with the trigger condition.* The
determination of whether a trigger condition (*i.e.,* situations that require attention or
adjustment) exists is separate and in addition to the receipt of information from the
industrial control device. In order for the processor to associate a data variable with the
trigger condition, an identified trigger condition must first exist. Trigger conditions
include, for example, conditions where the monitored status information correlates with
an entry in a predetermined status trigger list. (*See* pg. 18, ll. 8-10). Johnson *et al.* does
not describe these aspects of the invention as claimed.

Johnson *et al.* discloses a bi-directional pager communications system for
monitoring remote stations. Each remote station includes monitoring hardware, data
storage to collect and record data received by the monitor, and a pager to transmit the
data to a user. (*See* Abstract). The Examiner contends that Johnson *et al.* discloses a
processor that determines whether a trigger condition exists and associates data with the
trigger condition at Abstract, Figures 1-2, and paragraphs 0036-0039, 0056-0057, and
0085-0087. (*See* Final Office Action dated July 13, 2005, pgs. 5-6). Appellant's
representative respectfully disagrees with such contention.

At Abstract, Figures 1-2, and paragraphs 0036-0039, Johnson *et al.* describes a set
of three remote monitoring and control stations within the coverage area of the host

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system and another set of three remote monitoring and control stations outside the coverage area. The stations communicate with a mobile pager that can travel among the ranges of the stations and the range of host control system, and the mobile pager relays the received information to the host system. At paragraphs 0056-0057, Johnson *et al.* describes a Global Positioning System that monitors the position of the mobile pager, and at paragraphs 0085-0087, the cited reference further describes an effector that alters the function of the cathodic protection devices applied to the pipeline and a monitor that measures the state of cathodic protection. Johnson *et al.* fails to disclose a processor that *determines whether a trigger condition exists*, let alone a processor that *associates a data variable with the trigger condition.* Rather, Johnson *et al.*'s mobile pager communicates data to the host system regardless of whether a trigger condition exists. In addition, Johnson *et al.* cannot associate a data variable with a trigger condition when there is no determination of a trigger condition to begin with.

In view of at least the foregoing, it is readily apparent that Johnson *et al.* does not describe the invention as recited in independent claims 1, 7, and 14 (and associated dependent claims 2-6, 8-13, and 15-17). Accordingly, this rejection should be reversed.

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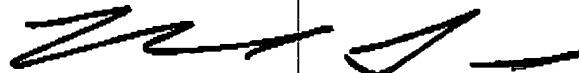10/790,520   00AB072A / ALBRP176USA

B.   Conclusion

For at least the above reasons, the claims currently under consideration are believed to be patentable over the cited references. Accordingly, it is respectfully requested that the rejections of claims 1-17 be reversed.

If any additional fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [ALBRP176USA].

Respectfully submitted,

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VIII.   Claims Appendix (37 C.F.R. §41.37(c)(1)(viii))

1.   A system that facilitates communication between an industrial control device and a remote user device, comprising:

an industrial control device that monitors information related to an industrial automation environment; and

a processor that receives information from the industrial control device, determines whether a trigger condition exists, associates a data variable with the trigger condition, and selectively constructs and transmits at least one pager message to the remote user device if a trigger condition exists.

2.   The system of claim 1, the processor receives programming information from the remote user device in response to the at least one pager message and constructs and transmits a programming message to the industrial control device.

3.   The system of claim 1, the remote user device is at least one of a telephone, cellular telephone, a personal desktop assistant (PDA), a personal computer, a laptop computer, and a pager.

4.   The system of claim 1, the at least one pager message comprises at least one text string.

5.   The system of claim 1, the industrial control device is a programmable logic controller (PLC).

6.   The system of claim 1, the processor and the remote user device communicate *via* at least one of a Telocator Alphanumeric Paging protocol and an ASCII protocol.

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7.   A method for communicating between an industrial control device and a remote
user device, comprising:

 receiving information related to an industrial automation environment from the
industrial control device;

  determining whether received information indicates a trigger condition;

  associating a data variable with an extant trigger condition;

  selectively constructing a pager message comprising a text string and the data
variable; and

  transmitting the pager message to the remote user device.

8.   The method of claim 7, further comprising permitting a user to transmit a
programming message *via* the remote user device.

9.   The method of claim 8, the programming message comprises information
associated with resetting at least one value determinative of a trigger condition.

10.   The method of claim 8, at least one of the pager message and the programming
message is constructed and transmitted *via* at least one of a Telocator Alphanumeric
Paging protocol and an ASCII protocol.

11.   The method of claim 8, further comprising translating the programming message
to a communications protocol that is readable by the industrial control device.

12.   The method of claim 11, further comprising reprogramming the industrial control
device according to the translated programming message.

13.   The method of claim 8, further comprising permitting the user to selectively direct
translation and transmission of the programming message to the industrial control device
to effect reprogramming of the industrial control device *via* the remote control device.

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14.   A system that facilitates communication between an industrial control device and a remote user device and selective reprogramming of the industrial control device, comprising:

means for detecting extant trigger conditions in an industrial automation environment;

means for assigning a data variable to the trigger condition;

means for translating information indicative of the extant trigger condition into at least one pager message; and

means for transmitting the at least one pager message to a remote user device to alert a user to the extant trigger condition.

15.   The system of claim 14, further comprising means for reprogramming the industrial control device *via* the remote user device.

16.   The system of claim 15, the means for reprogramming the industrial control device comprising means for receiving, translating, and transmitting a programming message from the remote user device to the industrial control device.

17.   The system of claim 14, the at least one pager message comprising at least one text string and a data variable associated with the extant trigger condition.

IX.   Evidence Appendix (37 C.F.R. §41.37(c)(1)(ix))

None.

X.   Related Proceedings Appendix (37 C.F.R. §41.37(c)(1)(x))

None.

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